IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 1ST DECEMBER 2006 / 10TH AGRAHAYANA 1928

WP(C).No. 30660 of 2006(Y)

PETITIONER:

BAIJU.K., AGED 29 YEARS,
S/O.KRISHNAN, THOMBRAKUDI HOUSE,
VENGOOR WEST VILLAGE, AKANAD KARA,
PERUMBAVOOR.

BY ADV. SRI.C.S.MANU
SRI.ANOOP.V.NAIR

RESPONDENTS:

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1. STATE OF KERALA REPRESENTED BY
THE SECRETARY TO GOVERNMENT OF KERALA,
DEPARTMENT OF HOME, GOVT. SECRETARIAT,
THIRUVANANTHAPURAM.

2. DISTRICT COLLECTOR, ERNAKULAM.

3. SUB INSPECTOR OF POLICE,
KODANADU POLICE STATION.

ADDL. 4. KOOVAPPADY GRAMA PANCHAYAT,
KOOVAPPADY, PERUMBAVOOR,
REP. BY ITS SECRETARY.

IMPLEADED AS ADDL.4TH RESPONDENT AS PER ORDER
DATED 23/11/06 IN I.A.NO.16356/06.

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 01/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

EXT.P1 – TRUE COPY OF THE PERMIT FROM THE KOOVAPPADY GRAMA PANCHAYAT UNDER RULE 48 K OF THE KERALA MINOR MINERAL CONCESSION RULES, 1967 DATED 16/11/2006.

EXT.P2 – TRUE COPY OF THE FIR INCLUSIVE OF THE F.I. STATEMENT SUBMITTED BY THE S.I. OF POLICE, KODANAD, DATED 16/11/2006.

EXT.P3 – TRUE COPY OF THE CERTIFICATE ISSUED BY M/S. ELITE AUTOMOBILES, PERUMBAVOOR – 683 542 DATED 16/11/2006.

//TRUE COPY//

R. BASANT, J.

W.P.(c). NO. 30660 OF 2006-Y

Dated this the 1st day of December, 2006

ORDER

The petitioner prays that Ext.P2 - F.I.R. registered against him may be quashed invoking the powers under Art.226 of the Constitution. Ext.P2 – F.I.R. has been registered on the allegation that the petitioner's vehicle was used by the driver of the vehicle for illicit transportation of sand. A crime has been registered. Investigation is in progress.

2. What is the reason for quashing the F.I.R. at this stage? The learned counsel for the petitioner submits that the transportation of sand was licit and was covered by the original of Ext.P1 pass issued by the competent authority. In these circumstances, he prays that the F.I.R. registered may be quashed. Unnecessary proceedings are initiated and the purpose appears to be vexation, it is submitted.

3. The learned Public Prosecutor, after taking instructions, has got a statement filed by the 3rd respondent. It is filed today, it is submitted. I have perused the copy of

the statement filed. It is stated that all the allegations raised in the writ petition are incorrect. Ext.P1 pass does not cover the alleged transportation. It is a concocted one. The lorry was not intercepted when it was transporting the sand on the strength of Ext.P1 pass, it is pointed out.

4. I shall carefully avoid any expression of opinion on merits about the acceptability of the allegations or the credibility of the defence which is sought to be raised. At any rate, I have no hesitation to agree that this is a fit case where the Investigating Officer must expeditiously complete the investigation. Inasmuch as it is now made known to the Investigating Officer that the petitioner seeks to justify the transportation on the basis of Ext.P1 pass, it is incumbent on him to enquire into that aspect. There is, of course, a dispute between the contestants as to whether the original of Ext.P1 has been handed over to the Investigating Officer or not. Whether handed over or not, the defence on the basis of Ext.P1 having been communicated to the Investigating Officer, the Investigating Officer will, of course, have to question the authority who allegedly issued Ext.P1 pass to ascertain the truth

or otherwise of the said contention. I have no hesitation to agree with the learned counsel for the petitioner that the Investigating Officer must complete the investigation as expeditiously as possible. Appropriate direction to that effect can also be issued.

5. The learned counsel for the petitioner submits that the vehicle is unnecessarily detained. It is for the petitioner to seek release of the vehicle to him in accordance with law. When such application is filed, needless to say, the learned Magistrate will have to consider such application expeditiously and on merits.

6. In the result, this writ petition is dismissed; but with the specific observation that the respondent/Investigating Officer shall complete the investigation as expeditiously as possible – at any rate, within a period of 30 days from this date. Extension of time for satisfactory reasons can be sought from the learned Magistrate.

(R. BASANT, JUDGE)

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